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EXAMINER	
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BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Application Number: 10/634,766
Filing Date: August 06, 2003
Appellant(s): MUNIERE, VINCENT

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EXAMINER'S ANSWER

This is in response to the appeal brief filed 5/05/2011 appealing from the Office action mailed 4/7/2010.

(1) Real Party in Interest

The examiner has no comment on the statement, or lack of statement, identifying by name the real party in interest in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

2, 8-10, 16, 17, 23-25, and 34-36.

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being

maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

2002/0080758 LANDAIS 6-2002

3GPP, "3GPP TS 04.60 version 8.15.0 Release 1999", 7/2002

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 2, 8-10, 16-17, 23-25, 34-36 are rejected under 35 U.S.C. 102(e) as being anticipated by Landais (U.S. Pub. No.: 2002/0080758 A1).

The applied reference has a common assignee with the instant application. Based upon the earlier effective U.S. filing date of the reference, it constitutes prior art

under 35 U.S.C. 102(e). This rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the reference was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

With respect to claims 2, 16-17, Landais teaches a mobile station and or a mobile network (See Landais e.g. MS and the network of Fig. 1) a method of allocating packet mode resources in a mobile radio system, the method comprising: a mobile station (See Landais e.g. MS communicating via the network as shown in Fig. 1) sending to the network , for signaling data transfer requirement (See Landais e.g. per definition: signaling, mobility management, Page1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023], Landais e.g. differing requirements, mobile station, EGPRS, Page 2, ¶ [0029]),) data transfer (See Landais e.g. transfer of data , TBF, Page 1, ¶ [0023]) an EGPRS (Enhanced General Packet Radio Service) packet channel request (See e.g. packet channel request message to network, Page 4, Lines 1-3 of ¶ [0081], EGPRS, Page 2, [0029], packet channel request message, Page 2, ¶ [0041]), including cause data specifying signaling data transfer requirements (See Landais e.g. per definition: signaling, mobility management, Page1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023], e.g. as defined: transfer of data, TBF, transmission direction, Page 1, ¶ [0020]).

Regarding claims, 8, 23, 34, Landais teaches the signaling data transfer requirements include requirements for transfer of signaling messages (See Landais e.g. per definition: signaling, mobility management, Page1, ¶ [0018], one-phase or two-

phase access, Page 1, ¶ [0023]) in accordance with a mobility management protocol (See Landais e.g. mobility management (MM), Page 1, ¶ [0018]).

Regarding claims 9, 24, 35, Landais teaches signaling messages (See Landais e.g. per definition: signaling, mobility management, Page1, ¶ [0018], one-phase or two-phase access, Page 1, ¶ [0023]) include a cell update message (inherently) sent in the event of cell reselection during a current user data transfer (See Landais e.g. cell reselection, cell reselection control mode, transfer, Page 2, ¶ [0033]-[0038]).

Regarding claims 10, 25, 36, Landais teaches signal message (inherently) include a paging response (See e.g. the mobile station sends the network a PACKET CHANNEL REQUEST message, as noted at 1, on a common uplink channel (PRACH). The network then responds with a PACKET UPLINK ASSIGNMENT message, as noted at 2, on a common downlink channel (PAGCH or paging), the latter message indicating directly to the mobile station the resources (PDCH) it has been assigned. The mobile station then uses those resources to transmit data (or RLC data blocks), as noted at 3, in the uplink direction, Page 4, ¶ [0077]) message in packet mode prior to a transfer of user data in the downlink direction (See Landais common downlink channel message (response), Page 1, Lines 1-10 of ¶ [0025]).

(10) Response to Argument

Summary of Technology

Before responding to the arguments presented by the Appellant, a brief overview of GSM packet request.

In general the Global System for Mobile Communications standard (GSM) provides multiple types of services (voice and data) to the mobile terminal. GSM initially deployed GPRS (General Packet Radio Service) to provide data access to mobile terminals. GPRS is a second generation data access system. Then GSM deployed EGPRS (Enhanced GPRS, or also known as EDGE: Enhanced Data rates for GSM Evolution) as a faster means of access data in GSM cellular networks.

In order to access data services, the GSM standard provides two process, a one phase procedure and a two phase procedure.

Based on the particular GSM network and/or the deployment of the EGPRS services, some cells support EGPRS and GPRS while others only support GPRS. When a cell does not support EGPRS the two phase procedure is used and when a cell supports EGPRS a one phase or two phase processes are possible.

Summary of Appellants arguments and Examiner's Response

The Appellant argues that Landais fails to teach, suggest or anticipate a mobile station sending to the network, for signaling data transfer requirements, an EGPRS (Enhanced General Packet Radio Service) packet channel request. The Appellant further argues that the supporting document, 3GPP TS 04.60 discloses a packet channel request and not an EGPRS Packet Channel Request for signaling data transfer requirements.

The Examiner respectfully disagrees with the Appellant's assertions. Landais discloses a EGPRS mobile phone and a one phase process of requesting packet access. The 3GPP TS 04.60 GSM standard (hereinafter "3GPP460") states that the one

phase process for packet request is used for EGPRS cells. Therefore, Landais teaches, suggest and anticipates a mobile station sending to the network, for signaling data transfer requirements, an EGPRS (Enhanced General Packet Radio Service) packet channel request.

Detailed Response To Arguments

1. **The Appellant Asserts (page 9): "**Landais does not teach or suggest a mobile station sending to the network, for signaling data transfer requirements, an EGPRS (Enhanced General Packet Radio Service) packet channel request."
2. *The Examiner respectfully disagrees: Landais discloses in paragraph [0076], setting up a temporary block flow using the one phase procedure. 3GPP460, on page 41, section 7.1.2.1, states "EGPRS capable MSs shall monitor the GPRS Cell Options IE on the BCCH (SI13)/PBCCH(PSI1/PSI13) for the cell's EGPRS capability. In PSI1 (and PSI13) it is indicated if the EGPRS PACKET CHANNEL REQUEST is supported in a cell. If the cell is EGPRS capable and EGPRS PACKET CHANNEL REQUEST is supported in the cell the,* ***EGPRS PACKET CHANNEL REQUEST messages shall be used at one-phase access attempts****, two-phase access attempts and short access attempts. If the cell is EGPRS capable and EGPRS PACKET CHANNEL REQUEST messages are not supported in the cell the* ***EGPRS mobile station shall use the PACKET CHANNEL REQUEST message according to parameter ACC_BURST_TYPE and shall initiate a two phase access request****." In other words a EGPRS capable mobile phone, as disclosed by Landais paragraph [0029], uses the one phase process for PACKET CHANNEL REQUEST*

in an EGPRS cell, therefore a EGPRS PACKET CHANNEL REQUEST. Therefore, Landais is showing, the limitation "a mobile station sending to the network, for signaling data transfer requirements, an EGPRS (Enhanced General Packet Radio Service) packet channel request."

3. **The Appellant Asserts (page 10):** "Landais discloses sending a Packet Channel Request and **NOT** an EGPRS packet channel request for signaling data transfer".

4. *The Examiner respectfully disagrees: Landais discloses in paragraph [0076], setting up a temporary block flow using the one phase procedure. 3GPP460, on page 41, section 7.1.2.1, states "EGPRS capable MSs shall monitor the GPRS Cell Options IE on the BCCH (SI13)/PBCCH(PSI1/PSI13) for the cell's EGPRS capability. In PSI1 (and PSI13) it is indicated if the EGPRS PACKET CHANNEL REQUEST is supported in a cell. If the cell is EGPRS capable and EGPRS PACKET CHANNEL REQUEST is supported in the cell the,* ***EGPRS PACKET CHANNEL REQUEST messages shall be used at one-phase access attempts****, two-phase access attempts and short access attempts. If the cell is EGPRS capable and EGPRS PACKET CHANNEL REQUEST messages are not supported in the cell the* ***EGPRS mobile station shall use the PACKET CHANNEL REQUEST message according to parameter ACC_BURST_TYPE and shall initiate a two phase access request****." In other words a EGPRS capable mobile phone, as disclosed by Landais paragraph [0029], uses the one phase process for PACKET CHANNEL REQUEST in an EGPRS cell, therefore a EGPRS PACKET CHANNEL REQUEST. Therefore, Landais is sending an EGPRS packet channel request for signaling data transfer."*

5. **The Appellant Asserts (page 12):** "Document 3GPP TS 04.60 discloses using a Packet Channel Request and NOT an EGPRS Packet Channel Request for signaling data transfer requirements".

6. *The Examiner respectfully disagrees: 3GPP460, on page 41, section 7.1.2.1, states "EGPRS capable MSs shall monitor the GPRS Cell Options IE on the BCCH (SI13)/PBCCH(PSI1/PSI13) for the cell's EGPRS capability. In PSI1 (and PSI13) it is indicated if the EGPRS PACKET CHANNEL REQUEST is supported in a cell. If the cell is EGPRS capable and EGPRS PACKET CHANNEL REQUEST is supported in the cell the,* ***EGPRS PACKET CHANNEL REQUEST messages shall be used at one-phase access attempts****, two-phase access attempts and short access attempts. If the cell is EGPRS capable and EGPRS PACKET CHANNEL REQUEST messages are not supported in the cell the* ***EGPRS mobile station shall use the PACKET CHANNEL REQUEST message according to parameter ACC_BURST_TYPE and shall initiate a two phase access request****." In other words a EGPRS capable mobile phone, as disclosed by Landais paragraph [0029], uses the one phase process for PACKET CHANNEL REQUEST in an EGPRS cell, therefore a EGPRS PACKET CHANNEL REQUEST. Therefore, 3GPP460 discloses using an EGPRS Packet Channel Request for signaling data transfer requirements*

7. **The Appellant Asserts (page 14):** "..the Packet Channel Request message in Landais is NOT inherently the EGPRS Packet Channel Request message".

8. *The Examiner respectfully disagrees: As shown above, Landais discloses a EGPRS capable mobile phone accessing data via a one phase process, therefore, as shown*

above, is using a EGPRS Packet Channel Request. Furthermore, inherency is irrelevant, Landais' one phase process covers both EGPRS Packet Channel Request (as shown above) and is suitable for Packet Channel Request, the process disclosed by Landais is not absolutely a specific type of Packet Channel Request. However, when considering that Landais does disclose using EGPRS capable phones, then the one phase process disclosed by Landais will be used for EGPRS Packet Channel Request.

9. *With regards to the Appellant's arguments regarding claims 9 and 10, on pages 15 and 16, the Examiner has responded to these arguments in the above responses.*

Respectfully submitted,

/Vladimir Magloire/

Examiner, Art Unit 2617

Conferees:

/KAMRAN AFSHAR/

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